

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated June 12, 2008. Reconsideration and allowance of the application in view of the amendments provided above and the remarks to follow are respectfully requested.

Claims 1-8 are pending in the Application.

In the Final Office Action, the specification is objected to for lacking headings. Applicants respectfully decline to add the headings as they are not required in accordance with MPEP §608.01(a), and could be inappropriately used in interpreting the specification.

Section headings are not statutorily required for filing a non-provisional patent application under 35 USC 111(a), but per 37 CFR 1.77 are only guidelines that are suggested for applicant's use. (See Miscellaneous Changes in Patent Practice, Response to comments 17 and 18 (Official Gazette, August 13, 1996) [Docket No: 950620162-6014-02] RIN 0651-AA75 ("Section 1.77 is permissive rather than mandatory. ... [T]he Office will not require any application to comply with the format set forth in 1.77").

It is respectfully submitted that "should" as recited in MPEP §608.01(a) is suggestive or permissive, and not mandatory as in "must" or "shall". For example, 37 CFR 1.77(b) recites:

The specification should include the following sections in order: (Emphasis added)

Similarly, 37 CFR 1.77(c) recites:

The text of the specification sections defined in paragraphs (b)(1) through (b)(12) of this section, if applicable, should be preceded by a section heading in uppercase and without underlining or bold type. (Emphasis added)

By contrast, 37 CFR 1.77(b)(5) recites:

(5) Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on a compact disc and an incorporation-by-reference of the material on the compact disc (see § 1.52(e)(5)). The total number of compact discs including duplicates and the files on each compact disc shall be specified. (Emphasis added)

Thus, it is respectfully submitted that a distinction is made between "should" and "shall", where "should" is permissive, and "shall" is mandatory. Accordingly, it is respectfully submitted that headings are not required in accordance with MPEP §608.01(a), and withdrawal of the objection to the specification is respectfully requested.

In the Final Office Action, claims 1 and 2 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Publication No. 2006/0005437 to Krishnan ("Krishnan") in view of U.S. Patent No. 5,042,179 to van der Meer ("van der Meer") and U.S. Patent no. 2,615,265 to Maykemper ("Maykemper"). In addition,

claims 3-8 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Krishnan, van der Meer, Maykemper, and further in view of U.S. Patent Publication No. 2006/0213092 to Leta ("Leta").

Further, claims 1 and 2 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,642,579 to Netten et al. ("Netten") in view of van der Meer and Maykemper. In addition, claims 3-8 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Netten, van der Meer, Maykemper, and further in view of Leta. It is respectfully submitted that claims 1-8 are allowable over the cited references for at least the following reasons.

To begin, Applicants reiterate that rejection of claims 1-8 based, in part, on Krishnan are legally deficient as a matter of law, as Krishnan is disqualified as prior art. In particular, Applicants respectfully submit that Krishnan is available as prior art with regard to the present application only under 35 U.S.C. §102(e), and is not available as prior art under §103(a) for the following reasons.

The present application was PCT filed in the US on June 16, 2006, and thus has the benefit of the November 29, 1999, changes to 35 U.S.C. §103(c). Under 35 U.S.C. §103(c), (emphasis added) "Subject matter developed by another person, which qualifies as

prior art only under one or more subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

The Undersigned hereby states that both the instant application and U.S. Publication no. 2006/0005437 to Krishnan were, at the time the invention of the instant application was made, owned by or subject to an obligation of assignment to Koninklijke Philips Electronics N.V. (U.S. Philips Corp. being a wholly owned subsidiary of Koninklijke Philips Electronics N.V.). Since, Krishnan has a publication date of January 12, 2006, which is after the PCT filing date of December 12, 2004, and the priority date of December 16, 2003, of the present application, Krishnan is available as prior art with regard to the present application only under 35 U.S.C. §102(e). As the present application is owned by the same entity or subject to an obligation of assignment to the same entity, it is respectfully submitted that Krishnan is not available as prior art under §103(a).

The Final Office Action takes a position that "applicant must file an affidavit or declaration under 37 CFR 1.132 showing that

the reference invention is not by 'another.'" This position is respectfully refuted.

According to the Guidelines Setting Forth a Modified Policy Concerning the Evidence of Common Ownership, or an Obligation of Assignment to the Same Person, as Required by 35 U.S.C. 103(c), 1241 OG 96 (Dec 26, 2000), the statement of an attorney or agent of record asserting common ownership at time the instant invention was made is sufficient evidence to disqualify the reference (see, section III, Modified Policy on Evidence to Establish Common Ownership or an Obligation for Assignment to the Same Person).

It is respectfully submitted that such a statement is contained herein. Based on the foregoing, the Applicants respectfully submit that Krishnan is disqualified as prior art. Accordingly, the Applicants respectfully submit that recitation of Krishnan in support of a 35 U.S.C. § 103(a) rejection is improper and that Krishnan should not bar the patentability of claims 1-8 under 35 U.S.C. § 103(a). Since even the Final Office Action acknowledges that van der Meer, Maykemper and Leta without Krishnan is lacking a sufficient showing to reject the claims, the Applicants respectfully submit that the rejection of claims 1-8 based on Krishnan are legally deficient as a matter of law.

Accordingly, the Applicants respectfully request that the rejections be withdrawn.

In addition, it is respectfully asserted that the reliance of the Final Office Action on van der Meer as disclosing a control means for opening and closing a valve if the ratio between the flow rate (g/min) of the pump and the power of the heating means is in a range of 1:20 to 1:38, is clearly misplaced.

Van der Meer shows in FIG. 1 a steam valve 46 that is used to open and close the steam pipe between the steam generator 40 and the steam passages (not shown) in the soleplate (see Col. 5, lines 63-67). Van der Meer shows a control circuit that is equipped for closing the steam valve when a position detector indicates that the iron is in a position other than the position occurring during normal use (see, Col. 4, lines 15-26; Col. 13, lines 39-44). Although Van der Meer discusses various steam flow rates (in Col. 11, line 47 - Col. 12, line 22) as cited in the Final Office Action, there is no teaching by van der Meer that the control circuit specifically controls the steam valve (46) to open if the ratio between the flow rate (g/min) of the pump and the power (W) of the heating means is in a range of 1:20 to 1:38. While it is alleged that the steam valve is utilized to provide given steam flow, this position is not supported by what is shown in van der

Meer. In fact, as made clear in van der Meer, "[w]hen ironing is being carried out with steam, the steam valve is opened (346) ..." (See, FIG. 3c and Col. 10, lines 13-14.) In van der Meer (emphasis provided) "[d]uring an ironing cycle the steam valve is opened, and pressure and temperature in the tank decrease while the steam flows away. The steam level is stabilized at a particular level by supplying an adequate quantity of energy to the tank."

In view of the above, it is respectfully submitted that claim 1 is not made obvious by the teachings of Netter, van der Meer and Maykemper, as the cited references do not disclose or suggest, a steam ironing device that amongst other patentable elements, comprises (illustrative emphasis added) "control means ... for controlling a opening and closing of said valve, said valve being controlled to be open if a ratio between the flow rate (g/min) of the pump and the power (W) of the heating means is in a range of 1:20 to 1:38 to control wetness of steam delivered by the atomizing device" as recited in claim 1. It is submitted as discussed above that van der Meer at a beginning of a steam ironing process (FIG. 3c), merely opens the steam valve and thereafter, controls steam flow by controlling the energy applied to the tank.

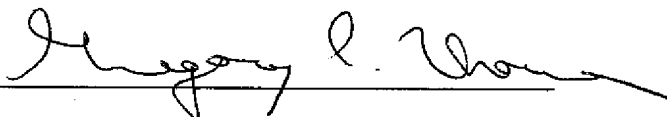
Based on the foregoing, Applicants respectfully submit that independent claim 1 is allowable over the combination of Netter,

van der Meer and Maykemper, and notice to this effect is earnestly solicited. Claims 2-8 depend from claim 1 and accordingly are allowable over the combination of Netter, van der Meer, Maykemper and Leta for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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